IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2828 OF 2006

Kishor Modi Yadav ...Petitioner
vs.
The State of Maharashtra ...Respondent

Ms Shraddha Mohite for the Petitioner
Ms Geeta Mulekar,A.P.P. for State

CORAM: A.S.OKA,VACATION JUDGE.
DATE : JANUARY 3,2007.

P.C.:

1. Rule. Learned A.P.P. waives service for State. By consent, taken up for hearing forthwith.

2. An order of externment under the Bombay Police Act, 1951 has been passed against the Petitioner. The Petitioner preferred a statutory Appeal before the Appellate Authority for challenging the said order. The Petitioner applied for stay of operation of the order of externment. By order dated 22nd December 2006, the Appellate Authority rejected the Application for stay.

3. The learned Advocate for the Petitioner pointed out that the Application for stay has been rejected by observing that the offences registered against the present Petitioner are of very serious nature. She pointed out that the offences registered against the Petitioner are under section 110 of the Bombay Police Act,1951. She, therefore, submitted that the ground on which the Application for stay has been rejected is

a non existing ground.

4. Faced with this submission, the learned A.P.P. states that the error is committed obviously because the stay Applications in a group of Appeals were decided together. The learned A.P.P., therefore, submitted that the Application for stay may be directed to be heard afresh.

5. Hence, I pass the following order :

i) The order dated 22nd December 2006 passed by the Appellate Authority is quashed and set aside.

ii) The Appellate Authority will decide the Application for stay made by the Petitioner afresh in accordance with law. The Appellate Authority is bound to take a note of the decision of this Court in case of Shamkumar Arjun Dalvi Vs. State of Maharashtra [1988 (1) Bombay Cases Reporter page 131). The Appellate Authority will pass a fresh order within a period of ten days from the date of production of an authenticated copy of this order.

iii) All contentions of the parties are kept open.

iv) Rule is made partly absolute in above terms.

JUDGE